



General Assembly

February Session, 2004

***Raised Bill No. 286***

LCO No. 1375

\* \_\_\_\_\_SB00286BA\_\_\_\_\_030404\_\_\_\_\_\*

Referred to Committee on Banks

Introduced by:  
(BA )

***AN ACT IMPLEMENTING THE LEGISLATIVE COMMISSIONERS'  
RECOMMENDATIONS FOR TECHNICAL REVISIONS TO VARIOUS  
STATUTES RELATIVE TO THE BANKING LAW OF CONNECTICUT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 36a-12 of the general statutes, as amended by  
2       section 2 of public act 03-84, is repealed and the following is  
3       substituted in lieu thereof (*Effective from passage*):

4       The commissioner may appoint and define the duties and authority  
5       of such employees as may be necessary to perform properly the  
6       functions of the commissioner's office. The deputy commissioner and  
7       any other employee of the Department of Banking shall have the same  
8       privileges and be subject to the same restrictions as the commissioner  
9       concerning relationships and transactions with any federal bank,  
10      federal credit union, out-of-state bank, out-of-state credit union,  
11      holding company that has a wholly-owned subsidiary that is a  
12      Connecticut bank, or [with] any person subject to the general  
13      supervision of the commissioner, except that any employee of the  
14      Department of Banking other than the deputy commissioner may be  
15      indebted to any person subject to the general supervision of the

16 commissioner, provided the prior approval of the commissioner is  
17 obtained for any singular indebtedness or series of indebtedness in the  
18 aggregate of twenty-five thousand dollars or more to any such person.  
19 Such prior approval shall not be required for (1) indebtedness resulting  
20 from the sale of the debt by the original lender, (2) indebtedness  
21 incurred at least six months prior to appointment as an employee of  
22 the Department of Banking, provided, the commissioner may grant  
23 retroactive approval upon such appointment in the case of any  
24 singular indebtedness or series of indebtedness in the aggregate of  
25 twenty-five thousand dollars or more to any such person that is  
26 incurred, in whole or in part, within six months prior to such  
27 appointment, or (3) indebtedness incurred by any employee of the  
28 Department of Banking who is covered under the terms of the  
29 administrative clerical (NP-3) collective bargaining agreement. For  
30 purposes of this section, "indebtedness" shall include a line of credit  
31 extended to any employee by a person subject to the general  
32 supervision of the commissioner whether or not such line of credit has  
33 been drawn upon. Any information submitted by an employee to the  
34 commissioner for the commissioner's approval pursuant to this section  
35 shall be exempt from disclosure under section 1-210, as amended.

36 Sec. 2. Subsection (g) of section 36a-139b of the general statutes, as  
37 amended by section 43 of public act 03-84, is repealed and the  
38 following is substituted in lieu thereof (*Effective from passage*):

39 (g) After receipt of the commissioner's approval for the conversion,  
40 the converting bank shall promptly file such approval and its  
41 certificate of incorporation with the Secretary of the State and with the  
42 town clerk of the town in which its principal office is located. Upon  
43 such filing, the converted Connecticut bank shall not accept retail  
44 deposits and shall be an uninsured bank, as defined in subsection (t) of  
45 section 36a-70, subject to the limitations in subdivisions (3) and (4) of  
46 subsection (t) of section 36a-70. Upon such conversion, the converted  
47 Connecticut bank possesses all of the rights, privileges and powers  
48 granted to it by its certificate of incorporation and by the provisions of

49 the general statutes applicable to its type of Connecticut bank, and all  
 50 of the assets, business and good will of the converting bank shall be  
 51 transferred to and vested in the converted Connecticut bank without  
 52 any deed or instrument of conveyance, provided the converting bank  
 53 may execute any deed or instrument of conveyance as is convenient to  
 54 confirm such transfer. The converted Connecticut bank shall be subject  
 55 to all of the duties, relations, obligations, trusts and liabilities of the  
 56 converting bank, whether as debtor, depository, registrar, transfer  
 57 agent, executor, administrator or otherwise, and shall be liable to pay  
 58 and discharge all such debts and liabilities, and to perform all such  
 59 duties in the same manner and to the same extent as if the converted  
 60 bank had itself incurred the obligation or liability or assumed the duty  
 61 or relation. All rights of creditors of the converting bank and all liens  
 62 upon the property of such bank shall be preserved unimpaired and the  
 63 uninsured bank shall be entitled to receive, accept, collect, hold and  
 64 enjoy any and all gifts, bequests, devises, conveyances, trusts and  
 65 appointments in favor of or in the name of the converting bank and  
 66 whether made or created to take effect prior to or after the conversion.

67 Sec. 3. Section 36a-251a of the general statutes, as amended by  
 68 section 25 of public act 03-84, is repealed and the following is  
 69 substituted in lieu thereof (*Effective from passage*):

70 The commissioner shall submit an annual report to the joint  
 71 standing committee of the General Assembly having cognizance of  
 72 matters relating to banks no later than January first. The report shall  
 73 summarize the commissioner's actions taken pursuant to section 36a-  
 74 70, 36a-139a or subdivisions (40) and (41) of subsection (a) of section  
 75 36a-250. [or section 36a-252a.]

76 Sec. 4. Subsection (b) of section 36a-262 of the general statutes, as  
 77 amended by section 18 of public act 03-259, is repealed and the  
 78 following is substituted in lieu thereof (*Effective from passage*):

79 (b) Liabilities of one obligor shall be attributed to another person  
 80 and each such person shall be deemed to be an obligor when proceeds

81 of a loan are to be used for the direct benefit of the other person, to the  
82 extent of the proceeds to be so used, or a common enterprise is deemed  
83 to exist between such persons. For purposes of this section, the  
84 proceeds of a loan to an obligor shall be deemed to be used for the  
85 direct benefit of another person and shall be attributed to the person  
86 when the proceeds, or assets purchased with the proceeds, are  
87 transferred to another person, other than in a bona fide arm's length  
88 transaction where the proceeds are used to acquire property, goods or  
89 services. For purposes of this section, a common enterprise shall be  
90 deemed to exist and liabilities of separate obligors shall be aggregated:

91 (1) When the expected source of repayment for each liability is the  
92 same for each obligor and neither obligor has another source of income  
93 from which the liability, together with the obligor's other liabilities,  
94 may be fully repaid. An employer shall not be treated as a source of  
95 repayment under this subdivision because of wages and salaries paid  
96 to an employee, unless the standards of subdivision (2) of this [section]  
97 subsection are met;

98 (2) When loans are made (A) to obligors who are related directly or  
99 indirectly through common control, including where one obligor is  
100 directly or indirectly controlled by another obligor; and (B) substantial  
101 financial interdependence exists between or among the obligors.  
102 Substantial financial interdependence is deemed to exist when fifty per  
103 cent or more of one obligor's gross receipts or gross expenditures, on  
104 an annual basis, are derived from transactions with the other obligor.  
105 Gross receipts and expenditures include gross revenues, expenses,  
106 intercompany loans, dividends, capital contributions, and similar  
107 receipts or payments;

108 (3) When separate persons borrow from a Connecticut bank to  
109 acquire a business enterprise of which such obligors will own more  
110 than fifty per cent of the voting securities or voting interests, in which  
111 case a common enterprise is deemed to exist between the obligors for  
112 purposes of combining the acquisition loans; or

113 (4) When the commissioner determines, based upon an evaluation  
114 of the facts and circumstances of particular transactions, that a  
115 common enterprise exists.

116 Sec. 5. Subsection (c) of section 36a-428n of the general statutes, as  
117 amended by section 3 of public act 03-153, is repealed and the  
118 following is substituted in lieu thereof (*Effective from passage*):

119 (c) Title to such business and property in this state of a foreign bank  
120 shall vest by operation of law in the commissioner and his successors  
121 upon taking possession, without the execution of any instruments of  
122 conveyance, assignment, transfer or endorsement. The commissioner  
123 shall promptly apply to the superior court for the judicial district of  
124 Hartford for appointment as receiver of such foreign bank with effect  
125 from the time of taking possession, and the superior court shall make  
126 such appointment. Thereafter, except as otherwise provided in this  
127 section, the commissioner shall liquidate or otherwise deal with such  
128 business and property in this state of a foreign bank in accordance  
129 with the provisions of sections 36a-223 to 36a-239, inclusive, as  
130 amended, provided, (1) "debts", "liabilities", "deposits", "claims" and  
131 other similar terms used in sections 36a-223 to 36a-239, inclusive, as  
132 amended, refer to the claims that the commissioner shall accept  
133 pursuant to subsection (e) of this section; (2) "creditors" and  
134 "depositors", as used in [such] said sections, refer to the owners of such  
135 accepted claims; (3) except as the context otherwise requires,  
136 "Connecticut bank", as used in [such] said sections, refers to the state  
137 branches or state agencies in this state; and (4) "officer", as used in  
138 [such] said sections, includes any person in charge of or who is an  
139 officer of such state branches and the agent or other person in charge  
140 of such state agencies. Notwithstanding any contrary provision of law,  
141 including chapters 55a and 67, the commissioner may employ or  
142 contract with such legal counsel and expert assistants under such titles  
143 as the commissioner may assign to them and may retain such of the  
144 officers or employees of such foreign bank as the commissioner deems  
145 necessary in the liquidation and distribution of the assets of such

146 foreign bank, without the prior approval of any other state agency or  
147 elective officers. The commissioner shall be entitled to the appointment  
148 of a single judge to supervise the liquidation upon request to the  
149 administrative judge of the superior court for the judicial district of  
150 Hartford. Said judge shall have the power to order expedited or  
151 simplified procedures whenever necessary to resolve a matter in such  
152 liquidation.

153 Sec. 6. Subdivision (4) of subsection (k) of section 36a-448a of the  
154 general statutes, as amended by section 4 of public act 03-35, is  
155 repealed and the following is substituted in lieu thereof (*Effective from*  
156 *passage*):

157 (4) The number of appointed directors and their qualifications shall  
158 be specified [for] in the bylaws.

159 Sec. 7. Subsection (l) of section 36a-454b of the general statutes, as  
160 amended by section 6 of public act 03-35, is repealed and the following  
161 is substituted in lieu thereof (*Effective from passage*):

162 (l) The directors, appointed directors, members of board-appointed  
163 committees, members of senior management and the immediate family  
164 members of such persons that have outstanding loans or investments  
165 in a credit union service organization shall not receive any salary,  
166 commission, investment income or other income or compensation  
167 from such credit union service organization, either directly or  
168 indirectly, or from any person being served through the credit union  
169 service organization. This provision shall not prohibit (1) such  
170 Connecticut credit union insiders or the immediate family members of  
171 such persons from assisting in the operation of such credit union  
172 service organization, provided such persons are not compensated by  
173 the credit union service organization, and (2) reimbursement to the  
174 Connecticut credit union for the services provided by such directors,  
175 appointed directors, committee members or senior management  
176 members if the accounts receivable of the Connecticut credit union due  
177 from the credit union service organization [is] are paid in full at least

178 quarterly.

179 Sec. 8. Subsection (g) of section 36a-461a of the general statutes, as  
180 amended by section 64 of public act 03-84, is repealed and the  
181 following is substituted in lieu thereof (*Effective from passage*):

182 (g) (1) Prior to investing in or lending to a credit union service  
183 organization, a Connecticut credit union shall obtain (A) a written  
184 agreement that the credit union service organization will: (i) Account  
185 for all transactions in accordance with generally accepted accounting  
186 principles, (ii) prepare quarterly financial statements and obtain an  
187 annual opinion audit by a licensed certified public accountant on its  
188 financial statements in accordance with generally accepted auditing  
189 standards, (iii) provide the commissioner with complete access to all  
190 books and records of the credit union service organization and with  
191 the ability to review credit union service organization internal controls,  
192 as the commissioner deems necessary, and (iv) pay the actual cost of  
193 any examination conducted by the commissioner; and (B) a written  
194 legal opinion that the credit union service organization is established  
195 as a corporation, limited partnership or limited liability company and  
196 the potential exposure of the Connecticut credit union is limited to no  
197 more than the loss of funds invested in or lent to the credit union  
198 service organization. In order for a Connecticut credit union to  
199 maintain its investment in or loan to a credit union service  
200 organization that plans to change its form of organization, the  
201 Connecticut credit union shall obtain a written legal opinion that the  
202 credit union service organization will continue in such form that will  
203 limit potential exposure to the Connecticut credit union to no more  
204 than the loss of funds invested in or lent to the credit union service  
205 organization.

206 (2) If the commissioner determines that a Connecticut credit union's  
207 investments in or loans to any credit union service organization exceed  
208 the limitations of this section or subsection (d) of section 36a-459a, or  
209 [is] are otherwise not prudent for the Connecticut credit union to

210 maintain, the commissioner may require the Connecticut credit union  
211 to divest such loans or investments.

212 Sec. 9. Subsection (k) of section 36a-461a of the general statutes, as  
213 amended by section 64 of public act 03-84, is repealed and the  
214 following is substituted in lieu thereof (*Effective from passage*):

215 (k) Each Connecticut credit union service organization and each of  
216 its directors, officers, managers, general partners, employees and  
217 authorized [agent of a Connecticut credit union service organization]  
218 agents who [has] have charge or possession of the funds, securities or  
219 other assets of such credit union service organization shall be bonded  
220 by a surety company authorized to do business in this state. Such bond  
221 shall be in favor of the Connecticut credit union service organization  
222 and in such amount as is approved by the board of directors, managers  
223 or general partners of the credit union service organization, which  
224 amount the commissioner may require to be increased for reasons of  
225 safety and soundness. A copy of each such bond and any renewal  
226 thereof or premium receipt therefor shall be promptly filed with the  
227 commissioner by the Connecticut credit union service organization.

228 Sec. 10. Subsection (e) of section 36a-470a of the general statutes, as  
229 amended by section 73 of public act 03-84, is repealed and the  
230 following is substituted in lieu thereof (*Effective from passage*):

231 (e) The commissioner may seek the appointment of a conservator or  
232 receiver for any Connecticut credit union, in accordance with section  
233 36a-220, if the commissioner certifies, in writing, that no other  
234 reasonable alternatives are available to protect the members and  
235 creditors of such Connecticut credit union, and [.] it appears that:

236 (1) The Connecticut credit union, through insolvency, repeated  
237 gross mismanagement or repeated neglect in the conduct of its  
238 operations, is no longer able to carry out the purposes for which it was  
239 formed;



240 (2) The Connecticut credit union has abandoned its activities and is  
 241 no longer functioning as a Connecticut credit union and termination  
 242 cannot be accomplished by any other means; or

243 (3) Any reason specified in subsection (a) of section 36a-220 exists.

244 Sec. 11. Subdivision (3) of section 36a-800 of the general statutes, as  
 245 amended by section 1 of public act 03-262, is repealed and the  
 246 following is substituted in lieu thereof (*Effective from passage*):

247 (3) "Creditor" means a person, including a municipality, [who] that  
 248 retains, hires, or engages the services of a consumer collection agency.

249 Sec. 12. Section 49-31j of the general statutes, as amended by section  
 250 39 of public act 03-84, is repealed and the following is substituted in  
 251 lieu thereof (*Effective from passage*):

252 The Banking Commissioner shall adopt such regulations, in  
 253 accordance with chapter 54, as the commissioner deems necessary  
 254 specifying (1) the manner in which a composite interest rate shall be  
 255 computed for the new mortgage debt pursuant to subsection (c) of  
 256 section 49-31i, and (2) the method or standard by which prevailing  
 257 market rates of interest are to be determined.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>
Sec. 10	<i>from passage</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>

***BA***      *Joint Favorable*